

***United States Court of Appeals
for the Second Circuit***



APPENDIX

ORIGINAL

77-1243
77-1285

United States Court of Appeals
FOR THE SECOND CIRCUIT

Docket No. 77-1243

Docket No. 77-1285

UNITED STATES OF AMERICA,

Appellee

—against—

WILLIAM H. HOCKRIDGE, CHARLES PETRI
AND STEPHEN K. EASTON,

Defendants-Appellants,

—and—

GEORGE FLYNN AND GEORGE WHITNEY,

Defendants.

APPENDIX FOR DEFENDANT-APPELLANT

STEPHEN K. EASTON

AND W. HOCKRIDGE

LANS FEINBERG & COHEN

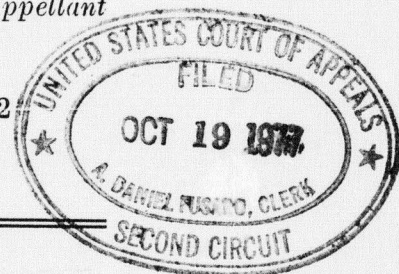
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PAGINATION AS IN ORIGINAL COPY

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0839

EASTON, STEPHEN K.

08 27

76

0843

U.S. TITLE/SECTION

18:371

18:656 & 2

18:1014

18:1005 & 2

OFFENSES CHARGED

Consp. to commit offenses against U.S.

Embezzle & misapply bk. funds.

False statements on application for bk. loan.

False entries in bank's books.

1

2

3-5

7-17

18-24

II. KEY DATES & INTERVALS

ARREST or

8-27-76

INDICTMENT

8-27-76

ARRAIGNMENT

9-8-76

TRIAL

11-15-76

U.S. Custody began

Summons Served

First Appearance

High Risk Date

Indict Waived

in Charging District

Information

Superseding Indictment

1st Plea

Final Plea

Trial Set

LONG G L NOL

G Plea W/Drawn

LONG G L NOL

Voir Dire

Trial Began

Trial Ended

Disposition of Charges

Convicted

Acquitted

Dismissed

On Government's Motion

SEN

SUPERSEDING COUNTS

MAGISTRATE

Search Warrant

Issued

Returned

Summons

Issued

Served

Arrest Warrant Issued

COMPLAINT

OFFENSE (in Complaint)

DATE

INITIAL/NO

INITIAL APPEARANCE DATE

INITIAL/NO

OUTCOME

PRELIMINARY EXAMINATION

OR

REMOVAL HEARING

WAIVED

NOT WAIVED

INTERVENING INDICTMENT

Date Scheduled

Date Held

Tape Number

HELD FOR GJ OR OTHER

HELD FOR GJ OR OTHER

U.S. Attorney or Asst.

ATTORNEYS

Defense: ☐ CIA ☐ Ret. ☐ Waived ☐ Sift. ☐ None / Other ☐ PD

John N. Bush

791-1951

* Show full names and unit numbers of other defendants on same indictment information.

Hockridge, et al

DATE

(DOCUMENT NO.)

PROCEEDINGS

8-27-76	Indictment ordered sealed.
9-1-76	Indictment ordered unsealed.
09-08-76	Filed \$15,000. Unsecured Personal Recognizance Bond.
09-08-76	Deft. (atty. W. Werner) pleads not guilty.
09-27-76	\$15,000. P.R.B. Deft. ordered p/f. Bonsal, J.
09-23-76	Pre-trial conf. held before Judge Bonsal
10-27-76	Filed def't's notice of motion re: bill of particulars, etc.
12-2-76	Filed memo-end. on motion docketed 9-23-76. Motion disposed of in accordance with directions at hearing on 10-26-76. Bonsal, J. m/n
12-7-76	Jury trial begun before Judge Bonsal.
12-8-76	"
12-9-76	"
12-10-76	"
12-14-76	"
12-15-76	"
12-16-76	"

EXCLUDED

(a) (b)

Worker

Worker

2 9-2

FINE AND RESTITUTION PAYMENTS:

[illegible]

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET *N* **U.S. vs EASTON, STEPHEN**

76, 0843

DATE	PROCEEDINGS (continued)	(a)	(b)
(Document No.)			
04-15-77	Filed Stip&Order adjourning sentencing by Court now scheduled to occur on 4/12/77 until day and time convenient to Court during week beginning 5/9/77 . Bonsal,J.		
05-04-77	Filed pre-sentence memorandum of deft.		
06-15-77	Filed JUDGMENT (atty. William Sherr) ct.1- 6 mos. impr. FINED \$5,000. on ct. 1, committed fine. Ct. 2-I.S.S. 3 yrs. prob. w/super. Deft. is cont'd. on present bail for 60 days. Bonsal,J. issued all copies.		

Selected Indictment

DFA:cc
4-2127

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- -x
UNITED STATES OF AMERICA :

- v - :

76 Cr. 843

WILLIAM H. HOCKRIDGE, :
CHARLES PETRI, :
GEORGE FLYNN, :
GEORGE WHITNEY, :
STEPHEN K. EASTON. :

Defendants. :
----- -x

The Grand Jury charges:

INTRODUCTION

1. At all times relevant herein, Chemical Bank was a bank organized under the laws of the State of New York, insured by the Federal Deposit Insurance Corporation and having its principal office in the borough of Manhattan, New York.

2. At all times relevant herein, Bank of New York was a bank organized under the laws of the State of New York, insured by the Federal Deposit Insurance Corporation and having its principal office in the borough of Manhattan, New York.

3. From the conception of the conspiracy charged in Count One of this Indictment up to and including the 30th day of June, 1972, WILLIAM H. HOCKRIDGE was an officer of the Chemical Bank engaged in making loans on behalf of the said bank.

4. At all times relevant herein, CHARLES PETRI was an entrepreneur who, among other things, secured loans from the Chemical Bank through the person of WILLIAM H. HOCKRIDGE and from the Bank of New York for numerous different corporations.

5. At all times relevant herein, GEORGE FLYNN was the partner of CHARLES PETRI in the various different corporations in which PETRI was involved.

6. At all times relevant herein, GEORGE WHITNEY was associated with CHARLES PETRI and GEORGE FLYNN in the various different corporations in which they were involved.

7. At all times relevant herein, STEPHEN K. EASTON was a certified Public Accountant and the chief financial officer of the various different corporations in which CHARLES PETRI and GEORGE FLYNN were involved.

9. The defendants CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON are when referred to collectively hereinafter called the "Borrowing Defendants."

10. This Introduction is hereby incorporated in each count of this Indictment as if set forth fully therein.

THE CONSPIRACY

1. From on or about the 1st day of January, 1971 up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did combine, conspire, confederate and agree together and with one another and with others to the Grand Jury both known and unknown to commit offenses against the United States, to wit, violations of Sections 656, 1005 and 1014 of Title 18, United States Code.

OBJECTS OF THE CONSPIRACY

2. It was a part of said conspiracy that the defendant WILLIAM H. HOCKRIDGE, with the aid and inducement of the Borrowing Defendants and the co-conspirators, unlawfully, wilfully and knowingly would and did wilfully misapply the moneys, funds and credits of the Chemical Bank and the moneys, funds and assets entrusted to the custody and care of said bank.

3. It was a further part of said conspiracy that the Borrowing Defendants and their co-conspirators, unlawfully, wilfully and knowingly would and did make false statements and reports, knowing the same to be false, and would and did overvalue property and security for the purpose of influencing banks, the deposits of which were insured by the Federal Deposit Insurance Corporation, upon loans to numerous different corporations controlled by said defendants and upon the change and extension of the same by renewal, deferment of action and otherwise.

4. It was a further part of said conspiracy that the defendant WILLIAM H. HOCKRIDGE, unlawfully, wilfully and knowingly, with the intent to defraud and injure the Chemical Bank and to deceive the officers of such bank, would and did make and cause to be made false entries in the books, reports and statements of such bank.

MEANS OF THE CONSPIRACY

5. Among the means by which the defendants and co-conspirators would and did carry out the said conspiracy were the following:

a. The Borrowing Defendants and their co-conspirators would and did in diverse ways secure control of bankrupt, insolvent and dormant corporations, establish new corporations and otherwise gain an interest in miscellaneous other unprofitable corporations and induce Chemical Bank through the defendant WILLIAM H. HOCKRIDGE and the Bank of New York to make loans to such corporations. The names of some of said corporations (hereinafter when referred to collectively called the "Borrowing Corporations") and the amounts of loans they obtained included:

<u>NAME</u>	<u>AMOUNT OF LOANS</u>
Cine Prime Corporation (formerly known as Zavala Riss Productions, Inc.) ("Cine Prime")	Chemical Bank - \$73,000
Comprehensive Sports Planning, Inc.	Chemical Bank - \$75,000
Cord Automobile Co., Inc. ("Cord")	Chemical Bank - \$72,500
Crossfield Funding, Inc. ("Crossfield Funding")	Chemical Bank - \$75,000
1141 Park Avenue Corporation	Chemical Bank - \$73,000
Field Ledge Corporation ("Field Ledge")	Chemical Bank - \$45,000
Flynn Communications, Inc. (formerly known as Simon & Flynn Communications. Inc.)	Chemical Bank - \$40,000

Flynn Group, Inc. ("Flynn Group")	Chemical Bank - \$50,000
Irteq Enterprises, Inc. ("Irteq")	Chemical Bank - \$75,000
Oceanic Drug Co., Inc. ("Oceanic Drug Co.")	Chemical Bank - \$75,000
Pacific Communications, Inc. ("Pacific Communications")	Chemical Bank - \$68,500
Sectors Enterprises, Inc.	Chemical Bank - \$40,000
Talmadge Furniture Co., Inc. ("Talmadge")	Chemical Bank - \$60,000
Tax By Telephone, Inc.	Chemical Bank - \$15,000
Theatrical S.R.O., Inc. ("Theatrical S.R.O.")	Chemical Bank - \$48,500
Today Store Services, Inc. ("Today Store Services")	Chemical Bank - \$75,000; Bank of New York - \$150,000
W.B. Service, Inc.	Chemical Bank - \$50,000
ZRZ, Ltd.	Chemical Bank - \$50,000

b. In order to induce the defendant WILLIAM H. HOCKRIDGE to approve loans to the Borrowing Corporations, the Borrowing Defendants and their co-conspirators would and did:

(i) Pay the defendant WILLIAM H. HOCKRIDGE \$14,000, which sum of money, as HOCKRIDGE then and there well knew, was a part of the proceeds from one of the loans he had approved.

(ii) Pay the defendant WILLIAM H. HOCKRIDGE's expenses on junkets the said defendant took with one or more of the Borrowing Defendants and their co-conspirators to Puerto Rico, Palm Springs, California and other places.

(iii) Provide the defendant WILLIAM H. HOCKRIDGE with free hotel rooms and meals in various establishments located in New York City and with gifts and other items and services of value.

c. To make it appear as if the Borrowing Corporations were engaged in large scale, profitable activities, when this was not in fact the case, the Borrowing Defendants would and did prepare false and fraudulent financial statements and various other documents for the Borrowing Corporations.

d. To make it appear as if the Borrowing Corporations were in large part under separate and individual management, the Borrowing Defendants would and did appoint as officers of the Borrowing Corporations, in addition to themselves, various clerks, secretaries and bookkeepers working for them, who functioned in their respective appointed positions solely at the direction and under the control of the Borrowing Defendants.

e. The defendant WILLIAM H. HOCKRIDGE, knowing full well of the false and fraudulent practices described in paragraphs (e) and (d) above, would and did wilfully violate various rules and regulations promulgated by Chemical Bank, including those rules and regulations then in effect which prohibited a bank officer from approving without higher review loans of more than a certain size to any one customer and those rules which required a bank officer to group together loans made to corporations under the control of one group of individuals so that the sum total of all such loans did not collectively exceed the bank officer's lending authority.

f. To conceal and cover up the loans which he made to the Borrowing Corporations in violation of Chemical Bank's rules and regulations and other sound credit practices, the defendant WILLIAM H. HOCKRIDGE would and did make false and fraudulent entries in the books of Chemical Bank, including preparing reports of interviews with various purported officers of the Borrowing Corporations and others, which reflected interviews that in fact had never taken place.

g. The false and fraudulent practices engaged in by the defendants and the co-conspirators described above caused the Chemical Bank to lose about \$1,000,000 in bad loans and the Bank of New York to lose about \$150,000 in bad loans.

OVERT ACTS

In furtherance of said conspiracy and to effect the objects thereof, the defendants and the co-conspirators did commit the following overt acts, among others, in the Southern District of New York and elsewhere:

1. On or about the 18th day of April, 1972, the defendant CHARLES PETRI asked Rosemarie Graham to sign a promissory note on behalf of Crossfield Funding.

2. On or about the 26th day of May, 1972, the defendant CHARLES PETRI asked Marvin Burke to sign a promissory note on behalf of Oceanic Drug Co.

3. On or about the 12th day of June, 1972, the defendant STEPHEN K. EASTON signed a \$72,500 promissory note payable to Chemical Bank on behalf of Cord.

4. On or about the 17th day of October, 1971, the defendant GEORGE FLYNN signed a \$40,000 promissory note payable to Chemical Bank on behalf of the Flynn Group.

5. On or about the 5th day of May, 1972, the defendant GEORGE WHITNEY signed a \$73,000 promissory note payable to Chemical Bank on behalf of Cine Prime.

6. On or about the 26th day of May, 1972, the defendant WILLIAM H. HOCKRIDGE prepared a false and fraudulent report of interview regarding Oceanic Drug Co.

(Title 18, United States Code, Section 371.)

COUNT TWO

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of these counts.

2. From on or about the 1st day of January, 1971 up to and including the 30th day of June, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, being then an officer of the Chemical Bank, and CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, did unlawfully, knowingly and wilfully misapply the moneys, funds and credits of the Chemical Bank and the moneys, funds and assets entrusted to the custody and care of said bank in the amount of approximately \$1,145,000.

(Title 18, United States Code, Sections 656 and 2.)

COUNT THREE

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of this count.

2. On or about the 10th day of December, 1971, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did make and cause to be made a false statement and report, to wit, the financial statement of Cord for the period ending October 31, 1971, which statement and report as the defendants then and there well knew was false in that it substantially overstated the "TOTAL ASSETS" and "capital and retained earnings" of Cord, for the purpose of influencing the action of the Chemical Bank upon a loan of \$50,000 to Cord and upon the change and extension of the same by renewal, deferment of action and otherwise.

(Title 18, United States Code, Sections 1014 and 2

COUNT FOUR

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of this count.

2. On or about the 18th day of April, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did make and cause to be made a false statement and report, to wit, the financial statement of Crossfield Funding for the period ending March 31, 1972, which statement and report as the defendants then and there well knew was false in that it substantially overstated the "Total Assets" and the "Common Stock and Contributed Capital" of Crossfield Funding, for the purpose of influencing the action of the Chemical Bank upon a loan of \$50,000 to Crossfield Funding and upon the change and extension of the same by renewal, deferment of action and otherwise.

(Title 18, United States Code, Sections 1014 and 2.)

COUNT FIVE

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of this count.

2. On or about the 11th day of December, 1971, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PIERI, GEORGE ALLEN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did make and cause to be made a false statement and report, to wit, the financial statement of 1141 Park Avenue Corporation for the period ending November 27, 1971, which statement and report as the defendants then and there well knew was false in that it substantially overstated the "Total Assets" and the "Common Stock and Surplus" of 1141 Park Avenue Corporation, for the purpose of influencing the action of the Chemical Bank upon a loan of \$48,000 to 1141 Park Avenue Corporation and upon the change and extension of the same by renewal, deferment of action and otherwise. (Title 18, United States Code, Sections 1014 and 2.)

COUNT SEVEN

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of this count.

2. On or about the 28th day of December, 1971, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did make and cause to be made a false statement and report, to wit, the financial statement of Irtep for the period ending December 24, 1971, which statement and report as the defendants then and there well knew was false in that it substantially overstated the "Total Assets," "Capital Stock and Surplus" and "Retained Earnings" of Irtep, for the purpose of influencing the action of the Chemical Bank upon a loan of \$50,000 to Irtep and upon the change and extension of the same by renewal, deferment of action and otherwise.

(Title 18, United States Code, Sections 1014 and 2.)

COUNT EIGHT

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of this count.

2. On or about the 26th day of May, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did make and cause to be made a false statement and report, to wit, the financial statement of Oceanic Drug Co. for the period ending April 30, 1972, which statement and report as the defendants then and there well knew was false in that it substantially overstated the "Total Assets," "Capital Stock and Surplus" and "Income" of Oceanic, for the purpose of influencing the action of the Chemical Bank upon a loan of \$75,000 to Oceanic Drug Co. and upon the change and extension of the same by renewal, deferment of action and otherwise.

(Title 18, United States Code, Sections 1014 and 2.)

COUNT NINE

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of this count.

2. On or about the 11th day of May, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did make and cause to be made a false statement and report, to wit, the financial statement of Talmadge Furniture Co. for the period ending April 30, 1972, which statement and report as the defendants then and there well knew was false in that it substantially overstated the "Total Assets" and "Total Capital" of Talmadge Furniture Co., for the purpose of influencing the action of the Chemical Bank upon a loan of \$60,000 to Talmadge Furniture Co. and upon the change and extension of the same by renewal, deferment of action and otherwise.

(Title 18, United States Code, Sections 1014 and 2.)

COUNTS TEN AND ELEVEN

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offenses described in paragraph 2 of this count.

2. On or about the 24th day of February, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did make and cause to be made a false statement and report, to wit, the financial statements of Tax By Telephone for the periods hereinafter set forth, which statements and reports as the defendants then and there well knew were false in that said statements substantially overstated the "Total Assets" and "Total Capital" of Tax By Telephone, for the purpose of influencing the action of the Chemical Bank upon a loan of \$15,000 to Tax By Telephone and upon the change and extension of the same by renewal, deferment of action and otherwise:

COUNT

FALSE STATEMENT AND REPORT

- | | |
|----|--|
| 10 | Financial statement of Tax By Telephone for the period ending Sep. 30, 1971. |
| 11 | Financial statement of Tax By Telephone for the period ending Dec. 31, 1971. |

(Title 18, United States Code, Sections 1014 and 2.)

COUNT TWELVE

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of this count.

2. On or about the 13th day of December, 1971, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did make and cause to be made a false statement and report, to wit, the financial statement of Theatrical S.R.O. for the period ending November 30, 1971, which statement and report as the defendants then and there well knew was false . . . that it substantially overstated the "Total Assets" and the "Capital and Surplus" of Theatrical S.R.O. for the purpose of influencing the action of the Chemical Bank upon a loan of \$48,500 to Theatrical S.R.O. and upon the change and extension of the same by renewal, deferment of action and otherwise.

(Title 18, United States Code, Sections 1014 and 2.)

COUNTS THIRTEEN THROUGH SIXTEEN

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offenses described in paragraph 2 of this count.

2. On or about the dates hereinafter set forth, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did make and cause to be made a false statement and report, to wit, the financial statements of Today Store Services identified below, which statements and reports as the defendants then and there well knew were false in that said statements substantially overstated the "Total Assets," capital stock and capital surplus and "Net Income" of Today Store Services, for the purpose of influencing the banks identified below upon the loans hereinafter set forth and upon the change and extension of the same by renewal, deferment of action and otherwise:

<u>COUNT</u>	<u>APPROXIMATE DATE</u>	<u>BANK AND LOAN</u>	<u>FALSE STATEMENT AND REPORT</u>
13	March 8, 1972	Chemical Bank \$75,000	Financial statement of Today Store Services for the period ending Jan. 31, 1972 (non-consolidated).
14	March 8, 1972	Chemical Bank \$75,000	Financial statement of Today Store Services for the period ending Jan. 31, 1972 (consolidated).
15	May 19, 1972	Bank of New York \$150,000	Financial statement of Today Store Services for the period ending Jan. 31, 1972 (non-consolidated).
16	May 26, 1972	Bank of New York \$150,000	Financial statement of Today Store Services for the period ending Jan. 31, 1972 (consolidated).

(Title 18, United States Code, Sections 1014 and 2.)

COUNT SEVENTEEN

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of this count.

2. On or about the 28th day of February, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly did make and cause to be made a false statement and report, to wit, the financial statement of ZRZ, Ltd. for the period ending January 31, 1972, which statement and report as the defendants then and there well knew was false in that it substantially overstated the "Total Assets," "Total Capital," and "Net Income" of ZRZ, Ltd., for the purpose of influencing the action of the Chemical Bank upon a loan of \$35,000 to ZRZ, Ltd. and upon the change and extension of the same by renewal, deferment of action and otherwise.

(Title 18, United States Code, Sections 1014 and 2.)

COUNT EIGHTEEN

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of these counts.

2. On or about the 30th day of March, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly, with intent to injure and defraud the Chemical Bank and to deceive officers of such bank, did make and cause to be made a false entry in a book, report and statement of such bank, to wit, a report of interview regarding 1141 Park Avenue Corporation that the defendant WILLIAM H. HOCKRIDGE purportedly had with "Steve Easton" and "Sidney Gilbert" on March 30, 1972, which report of interview as the defendants then and there well knew was false in that no such interview with "Sidney Gilbert" took place.

(Title 18, United States Code, Sections 1005 and 2.)

COUNT TWENTY

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of these counts.

2. On or about the 26th day of May, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly, with intent to injure and defraud the Chemical Bank and to deceive officers of such bank, did make and cause to be made a false entry in a book, report and statement of such bank, to wit, a report of interview regarding Oceanic Drug Co. that the defendant WILLIAM H. HOCKRIDGE purportedly had with "Marvin Burke" on May 26, 1972, which report of interview as the defendants then and there well knew was false in that no such interview took place.

(Title 18, United States Code, Sections 1005 and 2.)

COUNT TWENTY-ONE

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of these counts.

2. On or about the 11th day of May, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly with intent to injure and defraud the Chemical Bank and to deceive officers of such bank, did make and cause to be made a false entry in a book, report and statement of such bank, to wit, a report of interview regarding Talmadge Furniture Co. that the defendant WILLIAM H. HOCKRIDGE purportedly had with "George Kennedy" on May 11, 1972, which report of interview as the defendants then and there well knew was false in that no such interview took place.

(Title 18, United States Code, Sections 1005 and 2.)

COUNT TWENTY-TWO

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of these counts.

2. On or about the 10th day of March, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly, with intent to injure and defraud the Chemical Bank and to deceive officers of such bank, did make and cause to be made

a false entry in a book, report and statement of such bank, to wit, a report of interview regarding Today Store Services that the defendant WILLIAM H. HOCKRIDGE purportedly had with "Bob Fillet" and "Stan Soffer" on March 10, 1972, which report of interview as the defendants then and there well knew was false in that no such interview took place.

(Title 18, United States Code, Sections 1005 and 2.)

COUNT TWENTY-THREE

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offenses described in paragraph 2 of these counts.

2. On or about the 9th day of November, 1971, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly, with intent to injure and defraud the Chemical Bank and to deceive officers of such bank, did make a false entry in a book, report and statement of such bank, to wit, a report of an interview that the defendant WILLIAM H. HOCKRIDGE purportedly had with "Sheldon Riss" on November 9, 1971, which report of interview as the defendants then and there well knew was false in that no such interview took place.

(Title 18, United States Code, Sections 1005 and 2.)

COUNT TWENTY-FOUR

The Grand Jury further charges:

1. The allegations contained in paragraph 5 of Count One of this Indictment are repeated and realleged as constituting and describing some of the means by which the defendants committed the offense described in paragraph 2 of these counts.

2. On or about the 9th day of February, 1972, in the Southern District of New York, WILLIAM H. HOCKRIDGE, CHARLES PETRI, GEORGE FLYNN, GEORGE WHITNEY and STEPHEN K. EASTON, the defendants, unlawfully, wilfully and knowingly, with intent to injure and defraud the Chemical Bank and to deceive officers of such bank, did make and cause to be made a false entry in a book, report and statement of such bank, to wit, a report of interview regarding Zavala-Riss Productions, Inc. that the defendant WILLIAM H. HOCKRIDGE purportedly had with "Peter Fernandez" on February 9, 1972, which report of interview as the defendants then and there well knew was false in that no such interview took place.

(Title 18, United States Code, Sections 1005 and 2.)

FOREMAN

ROBERT B. FISKE, JR.
United States Attorney

EXCERPTS FROM THE TRANSCRIPT

TESTIMONY OF STEPHEN K. EASTON

2 of income statement; what do you mean by that?

3 THE WITNESS: It would be what the income for
4 this particular acquisition was going to be in the future.
5 It would be a projection of what --

6 THE COURT: What would that be based on?

7 THE WITNESS: Figures that Mr. Fillet gave you.

8 THE COURT: In other words, they would make a
9 projection and you would just combine it?

10 THE WITNESS: Yes. And there would be assump-
11 tions. Mr. Fillet would write out what he was basing
12 some of these numbers on. If I had a question, I would ask
13 him, and I'd put that in with the statements.

14 Q Was Mr. Fillet still your immediate superior
15 at that time?

16 A Yes, sir.

17 Q Did he remain your superior so long as he
18 remained at the Petri group?

19 A Yes, sir.

20 Q You said you gave them to your secretary. Who
21 was your secretary?

22 A Rosemary Graham. ✓

23 Q Did you ever give these statements, any workups
24 or projections or pro formas to anybody but Rosemary Graham?

25 A No sir.

1 Q What happened to these projections after
2
3 Rosemary Graham typed them up?

4 A I'd get them back, look at them that the
5 agreed with the numbers, and give them to Mr. Fillet. In
6 the instance where Mr. Petri might have given them to me,
7 I'd give them to Mr. Petri.

8 Q You have told us what a projection is in response
9 to his Honor's question. What is a pro forma?

10 A Pro forma would be where figures related to
11 a period that was already passed, but they were based on what
12 I would say other than actual figures from books and
13 records, because maybe the books and records were not avail-
14 able.

15 Q Where would you get these figures when you
16 prepared the pro forma?

17 A Where would I get them?

18 Q From whom?

19 A Mr. Fillet and Mr. Petri.

20 THE COURT: One thing I think the jury and I
21 ought to be clear on. Sometimes Mr. Fillet would give you
22 a set of figures and sometimes Mr. Petri?

23 THE WITNESS: Yes, sir.

24 THE COURT: I take it your testimony is that Mr.
25 Fillet gave them to you, you would prepare them on that

1 basis, Miss Graham would type them, you would give it
2 back to Mr. Fillet, and when Mr. Petri gave you the numbers,
3 you would give them back to Mr. Petri?
4

5 THE WITNESS: That's right.
6

7 Q Of these almost 100 workups and pro formas
8 that you prepared, do you know what companies they would
9 apply to?

10 A No, sometimes they would be assets Mr. Petri
11 would be thinking of putting into Cine-Prime or Today
12 Store Services or one of these other companies.

13 Q When you prepared these things, did you label the
14 in any way?

15 A Yes.

16 Q How did you label them?

17 A If they were projections I would put "projections"
18 In other words, if they applied to future assumptions,
19 if it was putting together future assets into another
20 corporation I'd put "pro forma". I'd put it right on the
21 statements. Then I was very careful to at least detail
22 by footnotes what the assumptions were as to how these
23 figures got together, because without the assumptions the
24 figures are meaningless.

25 And I put footnotes extensively on it.

Q Mr. Easton, at my request did you review the

1
2 various financial statements, balance sheets and operating
3 statements that have been offered into evidence by the
4 Government?

5 A Yes, sir, I looked at them.

6 Q I show you Government Exhibit 3F, which is
7 a balance sheet or financial statement for Cord Automobile
8 and ask you if you prepared that statement.

9 A No, sir.

10 Q How do you know?

11 A A number of things. First of all, it doesn't
12 say pro forma. I knew nothing, I didn't have any knowledge
13 of any books or records. In fact, Cord Automobile, although
14 I recognize the name, I know very little about that corpora-
15 tion. The income statement does say projected sales,
16 but there is writing over it, and I don't recognize the
17 numbers and if I did anything on Cord, I probably would
18 have had --

19 THE COURT: Don't say you probably would have
20 had. You say you didn't prepare these statements?

21 THE WITNESS: These statements I didn't prepare,
22 Assumptions and footnotes I generally put on a separate
23 piece of paper.

24 MR. SHERR: I would like to show the jury
25 what this statement looks like. This is the balance

sheet and this is the operations sheet.

Q By the way, there is some handwriting on Government Exhibit 3F-1, is that yours?

A No, there is some ink that isn't mine, and then there is some pencil that is not mine.

Q Can you recognize whose handwriting it is?

A No, I do not recognize it.

MR. SHERR: I think I incorrectly referred to them. That is Government Exhibit 3F and 3F-1.

THE COURT: Thank you.

Q I show you 4F, which purports to be a balance sheet on Crossfield Funding, and ask you if you prepared that.

A No, sir.

Q How do you know?

A Again, anything I would have prepared, and I don't even recognize Crossfield Funding, would have been pro forma. It doesn't include any footnotes --

MR. AMOROSA: Judge, I object to the speculation. Just "I did not prepare it" would have been enough.

THE COURT: I think that is true.

A I did not prepare it. There is no income statement, no footnotes.

MR. SHERR: Judge, I think it is important to

distinguish these statements from the ones he did prepare.

MR. AMOROSA: They speak for themselves.

THE COURT: He didn't prepare it.

Q Did you ever keep any books and records on Crossfield Funding?

A I didn't have anything to do with the books and records. There were some checks, I wasn't even a signatory -- all I know about Crossfield is it was a company tht Mr. Petri had.

Q You did keep checks or checkbooks for various corporations?

A Yes.

Q I am not relating to checkbooks, I am relating to ledgers, accounts and things like that.

Excluding checkbooks, did you keep any books and records for Crossfield Funding?

A No, sir.

Q Did you ever keep any books and records for Cord Automobile?

A No, sir.

MR. SHERR: I would like to show the jury the "financial statements" on Crossfield Funding.

(Pause.)

Q I show you Government Exhibit 5F, which

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2 purports to be a financial statement on 1141 Park Avenue
3 Corporation.

4 I ask you to look at it and ask you if you
5 prepared that.

6 A This balance sheet I definitely did not prepare.
7 I don't recognize the income statement --
8

9 THE COURT: Try to answer the question.
10 There is no need to worry about the reasons. Did you pre-
11 pare those statements, you say no?

12 THE WITNESS: I say no, sir.

13 THE COURT: All right.

14 THE WITNESS: Some of the figures may look familiar
15 though.

16 THE COURT: Some of the figures look familiar,
17 all right.

18 (continued on next page.)
19

20 End 5 AM
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(Mr. Sherr reads to the jury from

3

Government's Exhibit 5-F in evidence.)

4

Q I show you Government's Exhibit 6-F, which

5

is a financial statement for Fairways Development Corporation.

6

I ask you to look at that and ask you if you prepared that.

7

A No, sir.

8

Q Did you ever hear of Fairways Development

9

Corporation?

10

A Until this trial, no, sir.

11

(Mr. Sherr reads to the jury from

12

Government's Exhibit 6-F in evidence.)

13

Q Did you ever keep and prepare records for

14

Fairways Development Corporation?

15

A No, sir.

16

Q I show you Government's Exhibit 80F,

17

Simon & Flynn Corporation, Inc. I ask you to take a

18

look at this financial statement and tell me whether or not

19

you prepared it.

20

A No, sir.

21

Q By the way, what is a format when referring

22

to a financial statement?

23

A Well, generally it is the way financial state-

24

ments, balance sheets and income statements are put

25

together so they are readable, so they can be followed by

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2 somebody reading them.

3 Q In preparing a statement does an individual
4 usually follow the same format in preparing statements or
5 does he change formats?

6 A If I were preparing any statements, I would
7 generally follow the same format.

8 MR. AMOROSA: I object and ask that it be
9 stricken.

10 Q These financial statements you just looked
11 at, are they the same format or different formats?

12 A Each one is different.

13 Q Did I ask you if you prepared these?

14 THE COURT: Yes, he said he didn't.

15 (Mr. Sherr reads from Government's Exhibit
16 8-F in evidence.)

17 Q I show you Gover-ment's Exhibit 9-F, which
18 is a balance sheet for the Flynn group. I ask you to
19 look at that and tell me whether you prepared these.

20 A There is writing on this one. No, I did not
21 prepare these.

22 Q Is there any writing on the balance sheet
23 itself?

24 A On the consolidated balance sheet, January 31,
25

2 Q Is that in your handwriting?

3 A No, sir.

4 Q Do you know whose handwriting that is?

5 A I do not.

6 Q Do the words pro forma projection appear on
7 those?

8 A No.

9 Q I show you Government's Exhibit 9-F-1, which
10 is a balance sheet also for the Flynn Group Incorporated,
11 for a period October 15, 1971?

12 A Yes, sir.

13 Q Did you prepare that?

14 A No, sir.

15 Q Is the format different between these two,
16 these two Flynn group financial statements?

17 A Yes, sir.

18 MR. AMOROSA: The documents speak for them-
19 selves.

20 THE WITNESS: There is also some writing on this
21 one.

22 Q Is it a fact, sir, that in Government's
23 Exhibit 9-F the liabilities are separately listed and
24 capital is separately listed, while in Government's Exhibit
25 9-F-1 liabilities and capital are bunched together?

2 A Yes, sir.

3 Q By the way, does Exhbiit 9-F-1 appear to be
4 signed by Charles Petri?

5 A Yes, sir.

6 Q Were any of these others I refer to signed
7 by anybody?

8 A No.

9 Q Did you prepare Government's Exhibit 9-F-1?

10 A No, sir.

11 (Mr. Sherr reads to the jury from Government's
12 Exhibit 9-F and 9-F-1."

13 Q I show you Government's Exhibit 10-F, which
14 is a financial statement for Ertep Enterprises, dated
15 December 24, 1971. Did you ever make up a statement for
16 a period ending in the middle of a month?

17 THE COURT: Are you going to ask him whether
18 he prepared that? Ask him if he prepared that.

19 Q Take a look at this and I ask you if you
20 prepared that.

21 A No, I did not.

22 Q Does that statement end in the middle of a
23 month?

24 A Well, it is the 24th of December.

25 Q Did you ever in your life prepare a statement

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2 or work-up for a period ending in the middle of a month?

3 A No, I think I would prepare even these work-ups
4 for Mr. Fillet or Mr. Petri, I would always end it at
5 month end.

6 Q You don't end them on Christmas Eve?

7 THE WITNESS: No.

8 (Mr. Sherr reads to the jury from
9 Government's Exhibit 10-F.)

10 Q I show you Government's Exhibit 13-F and
11 13-F-1 which purports to be financial statements from
12 Sector Enterprises, 13-F for the period ending February 1,
13 1972 and 13-F-1 for the period ending March 1, 1972, and
14 ask you if you prepared either of these?

15 A First, I will look at the February 1st, 1972.
16 No, definitely not.

17 MR. SHERR: I would like to show it to the
18 jury.

19 (Mr. Sherr exhibits Exhibit 13-F to the
20 jury.)

21 Q Now, will you take a look at 13-F-1?

22 A This is March 1st, no.

23 Q Now, there is a four month difference between
24 these two statements, as well as a difference from the
25 other statements?

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A Yes.

Q Does one have a breakdown of liabilities and capital separately, and does the second one have liabilities and capital in a separate caption and then subdivided into liabilities and capital?

A Yes, sir.

Q Is the typewriter different on these documents?

A Definitely, yes.

Q As you recall from the statements I have been showing you, were they all typed on the same typewriter?

THE COURT: He is an accountant.

A The type looks different.

MR. AMOROSA: The documents speak for themselves.

THE COURT: We will let the jury determine whether the type looks different.

(Mr. Sherr reads from the exhibits and displays them to the jury.)

MR. SHERR: Your Honor, could we have a side bar for a minute?

THE COURT: Sure.

(At the side bar.)

MR. SHERR: Your Honor, I don't know how to

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2 handle this. When I was showing the last exhibit --

3 MR. AMOROSA: Wait on this until we have
4 had an opportunity to think about that. Some of the
5 jurors may think when they were processing these things
6 for fingerprints, so we are concerned about it.

7 MR. SHERR: I have not said anything.

8 THE COURT: I am glad you raised that. They
9 look a little dilapidated.

10 MR. AMOROSA: Some of the envelopes show
11 prints were found.

12 Mr. Sherr, I am not showing the envelopes.

13 THE COURT: Let me think about that. Thank
14 you very much.

15 (In open court.)

16 Q By the way, did you keep books and records
17 for any of these companies?

18 A The ones I have just been looking at.

19 Q Other than CSPI?

20 A No, sir.

21 Q I show you Government's Exhibit 1-F and
22 1-F-1 and ask you to look at these statements, 1-F being
23 the statement for Cine-Prime, a consolidated balance
24 sheet for December 31, 1971, and another one for Cine-
25 Prime for March 31, 1972. I ask you to look at those

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2 statements and tell us whether or not you prepared those?

3 A No, sir.

4 THE COURT: No.

5 THE WITNESS: Not on December 31, 1971.

6 Q How about March 31, 1972, which is 1-F-1?

7 A Again, there is something written in here
8 which is not even part of the statement.

9 THE COURT: Don't tell us that.

10 THE WITNESS: No, sir.

11 Q Was the format on these statements different
12 from the format on all the other statements as well?

13 A Yes, sir.

14 MR. AMOROSA: I am going to ask Mr. Easton to
15 explain it.

16 In what way is it different? The typing set-
17 up?

18 THE COURT: I think he said he prepared his
19 statements on a common format.

20 THE WITNESS: Yes, sir.

21 THE COURT: And you say these are formats dif-
22 ferent from the format that you used, and your point is that
23 these formats on each of these two statements is different?

24 MR. SHERR: Not from each other, but from all
25 the others.

1 THE WITNESS: These two statements are similar
2 and the format is different.

3 THE COURT: In what respect?

4 THE WITNESS: Assets and liabilities are in
5 capitals -- I mean there are numbers of differences.
6 They talk about liabilities and stockholder equity.

7 MR. SHERR: None of the other statements have
8 stockholder equity.

9 THE COURT: Don't you tell him.

10 That is the difference, is it?

11 THE WITNESS: There are other differences.

12 Q Is there any caption as contained in the other
13 exhibits about liabilities and capital?

14 A No, it talks about stockholder equity, not
15 capital.

16 Q Do the other statements talk about capital
17 or liabilities and capital?

18 A Yes, sir.

19 MR. SHERR: (To the jury) As you see, this
20 refers to stockholders equity and this refers to liabilities
21 and capital.

22 MR. AMOROSA: Judge, I ask that the remarks be
23 stricken. The statements themselves are in evidence.

24 THE COURT: I understand that, but that is all

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Easton-direct

right. The witness has testified that the format is different. I don't know how many of the jurors are accountants. I am not. He is pointing differences in the statements.

BY MR. SHERR:

Q I show you Government's Exhibit 14-F, which purports to be a financial statement for Talmadge Furniture. It is a one-page document. I ask you to look at that and ask you if you prepared it.

A No, sir.

Q Did you prepare any books and records for Talmadge Furniture?

A No, sir. I kept the checkbook.

(Mr. Sherr shows Exhibit 14-F to the jury and reads from it.)

Q I show you Government's Exhibit 15-F and 15-F-1, which are financial statements for Tax by Telephone. I ask you if you prepared these?

A Absolutely not. They are not even correct.

THE COURT: Don't tell us they are not correct. The question is, did you prepare them.

THE WITNESS: No, sir.

Q Is this the company that you told us about before that Mr. Link was operating?

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2 A Yes, sir.

3 Q To the best of your knowledge do you know
4 who prepared these particular financial statements?

5 A No, s ir.

6 Q Tax by Telephone?

7 A Mr. Link might have prepared them.

8 Q You weren't there when they were prepared?

9 A No, sir.

10 Q I show you Government's Exhibit 16-F, which
11 is a balance sheet, November 30, 1971, Theatrical SRO.
12 That is also an income statement projection for 1972.
13 I ask you if you prepared those.

14 A No, sir.

15 Q Did you ever keep any books and records for
16 Theatrical SRO?

17 A No, sr.

18 Q Anything about these financial statements that
19 are peculiar or that do not ordinarily appear on the
20 financial statement?

21 THE COURT: I don't know about that question.
22 Peculiar?

23 MR. SHERR: I thought about a word for
24 a while before I used it.

25 THE WITNESS: I didn't like it either.

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2 THE COURT: You didn't prepare that?

3 THE WITNESS: No, there are a few peculiar
4 things about that.

5 THE COURT: I am sure there are, but you didn't
6 prepare them?

7 THE WITNESS: No, sir.

8 Q Is there anything unusual about the numbers?

9 A Yes, sir.

10 Q What is that?

11 A They are all rounded, plus they have cents in
12 them, which does not make sense.

13 THE COURT: They are rounded with cents?

14 THE WITNESS: With zero cents.

15 THE COURT: Every number in the statement is
16 rounded?

17 A Yes.

18 Q Did you ever see a financial statement that
19 had every number rounded?

20 A No, sir..

21 (Mr. Sherr reads from Government's Exhibit 16-F
22 to the jury.)

23 Q I show you Government's Exhibit 17-F, which
24 is a consolidated balance sheet for Today Stores for a
25 period ending January 31, 1972, which came from the

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2 Chemical Bank file. I also show you Government's Exhibit
3 17-F-2, which appears to be an unconsolidated balance sheet
4 for Today Stores for January 31, 1972, which came from the
5 Chemical Bank file. I show you Government's Exhibit 26-F-2,
6 which is a consolidated balance sheet for January 31, 1972,
7 which came from the Bank of New York file, and I show you --

8 THE COURT: What company is that?

9 MR. SHERR: All the same company, Today
10 Stores --

11 Q -- and I show you an unconsolidated balance
12 sheet for Today Store Services, Inc. for the period ending
13 January 31, 1972, which came from the Bank of New York file.

14 First, I ask you if you prepared any of these
15 statements?

16 A No, sir. As to January 31, 1972, Chemical --

17 MR. AMOROSA: There are two.

18 THE WITNESS: As to 17-F-2, no, sir; this
19 is 26-F-2.

20 MR. AMOROSA: For the record, the con-
21 solidated for the Chemical Bank is the same as the Bank
22 of New York, and there is a small difference.

23 MR. SHERR: I object.

24 MR. AMOROSA: I am just trying to speed it up.

25 THE COURT: He did not prepare them. Let us not

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2 worry about that.

3 THE WITNESS: No, sir. As to 26-F-1 --

4 Q Now, is 26-F-1 the balance sheet for Today
5 Store Services as of January 31, 1972, which was sent to
6 the Bank of New York?

7 A Excuse me. This is the one to the bank; yes,
8 sir.

9 Q And is 17-F-2 the balance sheet of Today
10 Stores, January 31, 1972, the same date, the same company,
11 which was sent to the Chemical Bank?

12 A Yes, sir.

13 Q And were the numbers changed from the one that
14 was sent to the Bank of New York?

15 THE COURT: Wait.

16 Q Are there difference numbers?

17 THE COURT: Please don't read. They are in
18 evidence. Wait a minute, please.

19 Look at those balance sheets. They are
20 dated the same day? Are the numbers different?

21 THE WITNESS: The numbers are different.

22 THE COURT: In what respect?

23 THE WITNESS: The total assets are different
24 by about \$10,000.

25 MR. AMOROSO: Object to this "about" business.

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2 If he wants to read the figures, he can.

3 THE COURT: You say they are different.
4 Don't give us the amounts.

5 THE WITNESS: And the format is different.

6 MR. SHERR: I would like to read to the jury
7 from Government's Exhibit 17-F-2, which is the
8 balance sheet sent to the Chemical Bank for Today
9 Stores, an unconsolidated balance sheet sent to the
10 Chemical Bank for January 31, 1972, and there is this item --

11 MR. AMOROSA: May I see, Mr. Sherr?

12 MR. SHERR: -- which shows cash in bank
13 \$5500; it also shows total assets, 417,545.

14 The balance sheet, which is Government's
15 Exhibit 26-F-1, which was sent to the Bank fo New York for
16 the same company, for the same date, shows cash not
17 \$5500, but \$15,500 --

18 MR. AMOROSA: Would you agree that is the
19 only difference?

20 MR. SHERR: As to numbers?

21 MR. AMOROSA: The total assets --

22 MR. SHERR: Save that for summation.

23 You will also notice that it has obviously
24 been retyped and the liabilities --

25 MR. AMOROSA: Judge, we object. We don't know

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what he is trying to show? Is he trying to show they
are false?

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MR. SHERR: I am trying to show that we had nothing to do with it.

THE COURT: No, no --

MR. SHERR: And you are trying to show the other thing. If my accountant prepared that, I'd fire him.

THE COURT: Will you stop that, gentlemen. We are wasting time. The witness has testified there are differences.

MR. SHERR: I would like to point out liabilities accounts payable, then there is a line skipped, and then accrued taxes and expenses, there is a line skipped, and total liabilities.

On this one, it has accounts payable and then a line underneath, without skipping a line, it says accrued taxes and expenses, and the total liability, instead of appearing in the same type and in the same form, is capitalized and indented. And the same thing down in capital as far as the differences.

I am pointing particularly to accounts payable, accrued taxes, total liabilities. Here accounts payable, accrued taxes and expenses are put together and liabilities are capitalized and indented over here. These two statements are ostensibly the same statements.

Q By the way, did you copy the books and records 52

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2 of Today Stores?

3 A No, sir.

4 Q I show you Government Exhibit 18F, which is
5 a financial statement for WB Inc. I ask you to look at it
6 and tell us whether or not you prepared this.

7 A No, sir.

8 Q Is there some pencil writing on the balance sheet

9 A Yes.

10 Q Is that your handwriting?

11 A No, sir.

12 Q Do you know whose handwriting it is?

13 A No, sir.

14 Q Did you keep any books and reports ever for WB
15 Inc.?

16 A No, sir.

17 THE COURT: Excuse me, Mr. Sherr, is that
18 WB or WB Service?

19 MR. SHERR: It says WB Inc., on the statement,
20 your Honor.

21 THE COURT: Thank you.

22 MR. SHERR: This is the statement (indicating).
23 Balance sheet, statement of operations.

24 Q I show you Government Exhibit 19F, which is
25 a balance sheet for ZRZ Limited as of January 31, 1972, and

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Easton-direct

2 ask you to look at that and tell us whether or not you
3 prepared that.

4 A No, sir.

5 Q Did you ever keep any records for ZRZ Limited?

6 A No, sir.

7 MR. SHERR: This is the balance sheet, this is
8 the statement of operations.

9 Q I show you Government Exhibit 11F, which is
10 the balance sheet for -- as of April 30, 1972, on Oceanic
11 Drug, and a statement of operations for period ending
12 April 30, 1972, and ask you if you prepared that.

13 A No, sir.

14 Q Is that signed by the person who did prepare it?

15 MR. AMOROSA: Objection, Judge.

16 Q Is that signed --

17 THE COURT: He can see if there is a name on it.

18 Q Is there a name on it?

19 A It is signed by Mr. Burke.

20 Q Did you ever keep any books and records for
21 Oceanic Drug Company?

22 A No, sir.

23 MR. SHERR: This is the financial statement
24 on Oceanic Drug.

25 If your Honor please, I have another financial

elb-4

Easton-direct

statement from Oceanic Drug -- I am sorry, from Oceanic Drug Company which is not in evidence, but which I would like to have marked as Defendant Easton -- whatever the letter is.

(Defendant Easton Exhibit G was marked for identification.)

Q I show you Easton G for identification and ask you if this is a balance sheet for Oceanic Drug, dated June 5, 1972.

A Yes, sir.

Q June 5th is not the end of the month?

A No, sir, I did not prepare this.

Q Did you prepare it?

A No, sir.

Q Is there a name on the bottom typed?

A Yes. At the bottom it says by Marvin Burke, vice-president and chief operating officer.

MR. SHERR: I offer it in evidence.

MR. AMOROSA: ON what basis?

MR. SHERR: The same basis as all the financials you put in.

THE COURT: Wait a minute. I will receive the exhibit.

MR. AMOROSA: Judge, may I ask the witness

1 elb-17

Easton-direct

2 S T E P H E N E A S T O N resumed.

3 DIRECT EXAMINATION (continued)

4 BY MR. SHERR:

5 Q Mr. Easton, I want to take you back, if I may, to
6 Government Exhibit 11F, which is a financial statement
7 of Oceanic Drug, April 30, 1972, signed by Marvin Burke
8 as vice-president, and ask you to take a look at that.

9 A Yes, sir.

10 Q Do you recall having any conversation with Mr.
11 Burke concerning either that statement or any of the items
12 in that statement?

13 A I recall a conversation with Mr. Burke regarding
14 Oceanic.

15 Q Will you tell us what that conversation was?

16 A It related specifically --

17 MR. AMOROSA: Judge, we object. No objection
18 to the conversation.

19 Q Just tell us what he said and what you said.
20 Tell us what Mr. Burke said.

21 A The best I can recall is, he came to me, I
22 think this is in May of '72, and he said, "I just signed
23 a financial statement on Oceanic, and I am not too happy
24 with one of the figures".

25 Then I said, what do you mean?

elb-18

Easton-direct

He said, "Well, there is 100,000 of intangibles and I don't, you know, I don't think that is a correct figure".

And I really wasn't that familiar with the figures of Oceanic, but the way he explained it to me, his concern appeared valid.

Q Did he tell you what the original figure was?

A There was some mention that he said originally he had worked on the financial statements and there was a figure of \$25,000 for intangibles and it was changed to \$100,000, something like that.

Q Did he tell you who changed it?

MR. AMOROSA: Judge, I object to the leading nature of the questions.

THE COURT: Yes, I think I will sustain the objection. Don't lead the witness. Try to tell us what he said.

THE WITNESS: That Mr. Petri changed the figure to 100,000, and he was unhappy with it.

Q Was there anything else said at that time?

A Only the fact that he had signed the statement.

MR. PELTZ: Your Honor, I object to what Mr. Burke said Mr. Petri said, and I ask that it be stricken.

THE COURT: That is what he told you at the time.

elb-19

Easton-direct

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2 MR. PELTZ: Your Honor, I submit it is not bind
3 ing on Mr. Petri.

4 THE COURT: It is not for the truth of it, it
5 is what he said he said.

6 Q You didn't prepare this financial statement,
7 did you?

8 A No, I did not.

9 MR. SHERR: This is the statement we referred
10 to, and the item involved is this intangibles which reads
11 \$100,000.

12 THE COURT: What exhibit is that, Mr. Sherr?

13 MR. SHERR: That is Exhibit 11F, your Honor.

14 THE COURT: Thank you.

15 Q Getting back to your duties at 635 -- were you
16 at 635 Madison Avenue when Fillet came over to you and
17 asked you do do those workups, those projections, pro
18 formas?

19 A Yes, that is where I started working for Mr.
20 Petri and his companies.

21 Q Did you continue doing the keeping of books
22 and records for CSPI?

23 A Yes. In fact, I bought the books and records
24 of Comprehensive Sports Planning up with me.

25 Q Were you ever asked to take care of the

EXCERPTS FROM THE TRANSCRIPT

COLLOQUY AND INTERVIEW BY COURT OF
JURORS #3 AND #4

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5905

United States of America

v.

76 Cr. 843

William Hockridge, et al.

New York, New York

February 15, 1977
9:30 a.m.

- - -

(Deliberations resumed.)

- - -

MR. SHERR: Your Honor will recall yesterday evening Mr. Landsman said he would not be able to be here today and he agreed that I could appear in his behalf and cover for him. Mr. Hockridge also consented to that. Neither Mr. Landsman nor Mr. Hockridge is heretoday. In my capacity within the authority that is given to me by Mr. Landsman, I see no objection to the case proceeding with the reading of Flynn's testimony in Mr. Hockridge's absence.

THE COURT: I am inclined to think that is right, too, because this involves Mr. Flynn, and I remember that happened yesterday.

MR. AMOROSA: Judge, the other matter is, Mr. Petlz isn't present here now and we will ask your Honor

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2 if we can proceed in Mr. Peltz' absence.

3 DEFENDANT PETRI: Your Honor, Mr. Peltz is
4 across the street in the Appellate Court and you can pro-
5 ceed in his absence.

6 THE COURT: Thank you, Mr. Petri.

7 (Jury entered the courtroom.)

8 THE COURT: Good morning, ladies and gentlemen.
9 Ladies and gentlemen, referring to your note which you
10 left before we adjourned yesterday, Item 1, we would like
11 to hear the direct examination and cross examination
12 of the defendant George Flynn from the time he became
13 associated with the defendant Mr. Petri.

14 The reporter will read that to you, and if
15 at any time you have heard what you want to hear, you can
16 raise your hand and the reading will stop.

17 The remaining parts have to do with exhibits,
18 and the exhibits will be furnished to you when the reading
19 is stopped. The lawyers have collected these exhibits.

20 Secondly, Mr. Hammer couldn't be here this morn-
21 ing, so he's asked Mr. Lewis to pinch hit for him and this
22 Mr. Lewis, to represent Mr. Hammer and Mr. Flynn.

23 All right, Mr. Reporter, would you start reading
24 the testimony.

25 (Record read.)

1
2 THE COURT: Ladies and gentlemen, during the
3 recess the lawyers have been good enough to agree they
4 would speak to the reporter from time to time, which I think
5 may help.

6 The reporter will proceed -- have you worked out
7 an arrangement on that?

8 MR. AMOROSA: Judge, I am going to start for
9 about a half hour, and then another lawyer will jump in.

10 (Record read.)

11 THE COURT: We have finished with the direct
12 examination. You can have the exhibits that you called
13 for, and we will continue the reading at half-past one.

14 (Luncheon recess.)
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AFTERNOON SESSION

MR. AMOROSA: Your Honor, note that Mr. Peltz is again not in the courtroom.

THE COURT: Mr. Petri has been very kind about that. I am sure that makes no difference.

MR. LANDSMAN: Your Honor, not that Mr. Hockridge had to go untown. He will be back.

THE COURT: All right.

(The jury entered the courtroom.)

THE COURT: Good afternoon, ladies and gentlemen. We have completed, I think, the direct examination of Mr. Flynn and we will now proceed with the cross examination. And again I remind you if at any time you have heard what you want to hear, let me know and we can discontinue it. Mr. Sherr has been good enough to say he will start off.

(Record read.)

THE COURT: Thank you, ladies and gentlemen. You can resume your deliberations.

(Recess.)

(At 2:10 p.m. a note was received.)

THE COURT: I have a note from the jury. They want these exhibits. See if you can work in the

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2 robing room and give them the exhibits, because I have
3 another matter.

4 (Recess.)

5 (Court Exhibit 24 was marked.)

6 (5:00 p.m.)

7 THE COURT: I have received a note some time
8 this morning, I can't remember, and I can't remember who
9 handed it to me -- did you hand it to me, Mr. Wallace?

10 THE CLERK: The clerk gave it to me and I gave
11 it to you.

12 THE COURT: Which reads: "Judge Bonsal,
13 I'd very much like to see you, Miss Howe, No. 4."

14 This afternoon when I got through with that
15 suppression hearing I take this out and I gave it to the
16 government and Mr. Hammer, and I asked them to please see
17 that the others got a chance to see it.

18 MR. HAMMER: In reflecting upon that communi-
19 cation, your Honor, it may of course refer to a peculiarly
20 personal problem of the juror which has nothing whatever to
21 do with the deliberations concerning the defendants in this
22 case.

23 On the other hand, it may refer to some act
24 of intimidation or improper conduct or behavior of the jury,
25 which would affect deliberations concerning the defendants in

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2 this case. Since there is no way of ascertaining what it
3 implies or what it means without the court having spoken to
4 the juror and recording what the juror says in the pre-
5 sence of a reporter --

6 THE COURT: There is nothing in this note
7 taht says there is anything urgent about it. You remember,
8 I arranged for her to go see some people the other day
9 about a job or something?

10 MR. HAMMER: And recalling at the outset of
11 this trial there was an allegation by one of the jurors that
12 jurors on this panel had foreclosed their minds and certain
13 of them had considered the defendants guilty so as to
14 require individual interview of the various jurors by the
15 court as a result of which the defendants did make their
16 position known and did make appropriate motions at that
17 time. I would at this time respectfully request
18 that before the deliberations be permitted to go any
19 further the court interrogate the juror who sent the note in
20 order to ascertain what it is the juror wanted to say to
21 the Court.

22 MR. SHERR: If your Honor please, I respectfully
23 join in Mr. Hammer's application.

24 I would further like to pint out to the Court
25 that I also do not know the nature of the purpose for which

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2 the juror has requested an audience with your Honor.

3 However, I should point out to the Court that I personally
4 observed on Friday evening when she returned, that par-
5 ticular juror returned to the courtroom from the jury box
6 she had evidently been crying, still had tears in her eyes.

7 Whether or not she is under any kind of pressure
8 or is being intimidated or whether this has anything to do
9 with this note, I don't know. But I think the Court
10 should inquire into that to ascertain what this note per-
11 tains to.

12 MS. MELLOR: Your Honor, I would also join
13 in that application. Under the circumstances I think
14 it incumbent on the Court to find out what this is all
15 about and determine whether deliberations should continue.

16 MR. LANDSMAN: I join in that motion, your
17 Honor.

18 MR. AMOROSA: Everybody seems to be curious.
19 It is our position that you not do this, because if you do do
20 it then they would have a motion later on appeal that you
21 interfered with the jury process. The juror in this
22 case knows the way to communicate with the Court. If
23 there is any question at all as to what the law is or what
24 her obligations are, it is only speculation, but I submit
25 the speculation is based on reason, if they wanted

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2 anything from the court as to her viewpoint as opposed to oth
3 jurors' viewpoints, she knows how to communicate with the
4 court.

5 WE submit that if your Honor did speak to the
6 juror at this point later on we would have headaches on
7 people assuming she convicted after she spoke to your
8 Honor, that your Honor had something to do with that.

9 MR. SHERR: For purposes of the record, I'd like
10 to make it clear, the government is ascribing motives to the
11 defendants' attorneys and in making this application
12 that I think are horrible.

13 We do not intend to trap your Honor into
14 granting an application made by us to use as a basis for
15 appeal. I for one will state that if your Honor sees fit
16 to interview this juror I will not use that as a basis for
17 appeal, the fact that your Honor interrupted the deliber-
18 ations and I am sure fellow counsel feel the same way.
19 We feel it is incumbent on the Court to find out what
20 it is and I don't know why the U.S. Attorney is afraid to
21 find out what it is by communicating with the juror.

22 THE COURT: I did instruct the jury when I
23 charged them clearly, I told them two things, don't be
24 afraid to change your opinion because of pride of opinion or
25 any other reason, if you find that your original opinion

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2 was wrong. But I also instructed them that they should
3 never surrender their conscientious convictions because
4 they are outvoted or anything at all. I instructed
5 them quite clearly on that.

6 Secondly, there is nothing in this note that
7 indicates either that it is in connection with the case
8 or it may be regarding what she wants to do; when I let her
9 off on that other occasion, I don't know. But I am
10 reluctant, really, to interview a juror while the
11 deliberations are going on because -- and I don't know
12 whose ox is gored; it might be the defendants as
13 well as the government, I don't know, because I think it
14 raises questions among the other jurors and may lead to prob-
15 lems which I think might be unfortunate.

16 So unless I see some further need for doing it
17 before the jury completes its deliberation, I don't intend
18 to interview her. In any event, if I change my mind on
19 that, I will let you know.

20 MR. HAMMER: May I respectfully inquire
21 whether your Honor will, when the deliberations are con-
22 cluded, assuming the conclusion of the deliberation is
23 unfavorable to my client in any respect, then inquire of
24 that young woman, and if pertinent to this case, make a record
25 of what she had to tell you?

1
2 THE COURT: I will interview her with the
3 reporter privately at the end of the case. The government
4 I can't see would have any objection to that.

5 MR. HAMMER: It is personally distasteful to me
6 to be required to speak to any juror after deliberations had
7 been concluded. I prefer not to see them or talk to
8 them.

9 THE COURT: I will ask the jurors not to speak
10 to you also. But I think that's reasonable. I did
11 intend after the deliberation is over and she has
12 written the note, I intend to see her and ask her what
13 was on her mind.

14 MR. HAMMER: May I ask you to ask her why
15 she sent the note when she did?

16 MR. SHERR: In the event the jury does not
17 return a final verdict today, that after they have terminated
18 deliberations today, that possibly your Honor could see her
19 without interrupting deliberations after the jury has been
20 excused.

21 THE COURT: I will think about that.

22 MS. MELLOR In terms of your interviewing
23 her there may be a way for us to find out what the
24 general area of her inquiry is without you personally
25 speaking to her.

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2 THE COURT: How are you going to do that?

3 MS. MELLOR: We could send a note in through
4 the marshal.

5 THE COURT: Oh, no, ma'am. I don't think --
6 even Mr. Sherr wouldn't agree with that.

7 MR. SHERR: No.

8 THE COURT: The other thing I thought we would
9 do is what we did yesterday, I will ask the jury to come
10 in now, they have been in that room now for two or three
11 hours, and do what we did last night, see what they would
12 like to do and where we go.

13 MR. SHERR: We have no objection to that.

14 THE COURT: Thank you, gentlemen.

15 (The jury entered the courtroom.)

16 (Court Exhibit 25 was marked.)

17 THE COURT: Good evening, ladies and gentlemen.
18 As I did last night, I just thought I'd call you in and we
19 could talk a little about what you'd like to do. You can
20 do what you did yesterday, we can go on to say 6 o'clock
21 or something like that and we could recess until tomorrow
22 morning or you can work this evening, if you'd like.
23 I know you have thought much about it. It is a
24 little after 5 now. Do you have any views on that,
25 Mr. Foreman?

MR. FOREMAN: I believe we just thought we'd work a little longer.

THE COURT: All right. Why don't you work a little longer and about 6 o'clock will come down again and see how you are doing.

One other thing, you can decide whether you want to stay tonight. I think that restaurant may be open tonight -- the foreman doesn't --

THE FOREMAN: I think some of us have been suffering already with the meals we had from lunch.

THE COURT: All right. Then come back around 6. I will call you in around 6.

(Jury left the courtroom to continue their deliberations.)

THE COURT: One thing that did occur to me. I did observe Juror No. 4 and I don't think she looked to me as though she was suffering from any --

MR. O'CONNOR: It looked to me as if some of the other jurors had tears in their eyes.

THE COURT: I made that observation. I think they are all tired.

MR. AMOROSA: No question, Judge. But just to make our position clear on the record with regard to the suggestion that your Honor speak to the juror, we are against

1 jpbr 1

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2 United States of America

3 v.

76 Cr. 843

4 William Hockridge, et al.

5 New York, New York

6 February 16, 1977

7 9:30 a.m.

8 - - -

9 (Deliberations resumed.)

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11 (10:00 a.m., in the robing room.)

12 THE COURT: Mr. Sherr, you are appearing for
13 Mr. Landsman this morning. I want to note that Mr. Amorosa
14 is not here. This proceeding was to start at half-past
15 nine. I made strenuous efforts to get him here and we
16 have been unsuccessful and Mr. O'Connor doesn't know where
17 he is, is that correct?

18 MR. O'CONNOR: That is correct.

19 THE COURT: I have received a letter a few min-
20 utes ago from Juror No. 3 which reads "Judge Bonsal,
21 please see me as soon as possible this morning. I feel
22 that I have committed a grave injustice. Inasmuch as
23 I let myself be led or rushed for lack of a better word into
24 agreeing with the verdict of the jury. I am sorry for
25

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2 having let this matter continue as long as I have.

3 Thank you, Mrs. Victoria Bruno, No. 3."

4 I guess there are two things I can do.

5 One is to discharge the jury and set aside the
6 verdict and the only other one and I don't know whether
7 that is practical but I would like to discuss it with you.
8 I will get Mrs. Bruno here and I also think I will get
9 No. 4 because they have been working together throughout
10 from the previous note.

11 I will interview them and see any way of
12 salvaging the thing. I think both sides want a verdict.

13 What are your thoughts?

14 MR. HAMMER: Quite frankly the only verdict
15 I want is one of acquittal. Unless I know I have got it,
16 I would just as soon have the jury discharged.

17 I have one other matter to take up with you.

18 THE COURT: Let's do that now.

19 MR. HAMMER: I want to indicate that I do when
20 this discussion is concluded. I agree that your Honor
21 should interview the two of them at this point at this
22 particular time.

23 THE COURT: Are they all here?

24 THE CLERK: They are all here, Judge. They
25 haven't started to deliberate yet as far as I know.

1 jobr 3

2 MR. HAMMER: I think your Honor should inter-
3 view them to start with and I assume that would be pri-
4 vately.

5 THE COURT: That is right. I think I will
6 interview both of them. Have they got another room?

7 THE CLERK: I have another room but they are
8 still here.

9 THE COURT: I want to get all these files out
10 of here before I bring them in. Mr. Amorosa has just ap-
11 peared. What happened to you?

12 MR. AMOROSA: I was in another office, Judge,
13 and I left word with my secretary or receptionist.
14 Excuse me for being late.

15 THE COURT: I read this into the record and
16 I'm sure you can read it yourself.

17 (Pause.)

18 MR. AMOROSA: Has there been any additional
19 indications that there is another verdict?

20 THE COURT: She's talking about the verdict
21 the night before last. Now, Mr. Hammer, I have suggested
22 two things. One to discharge the jury and the other
23 to interview this lady and to interview No. 4 which
24 I think they are sort of side kicks. I will see what
25 the problem is and do that on the record.

1
2 I hope that in some way that might salvage
3 the situation. Mr. Hammer, I think, though he would
4 rather have an acquittal and I understand that, but I think
5 he thinks that would be a good idea.

6 MR. SHERR: If your Honor please, my position
7 is that obviously what I have sensed for some time, I saw
8 No. 3 coming in and crying Friday. On Monday, both No. 3
9 and No. 4 appeared as if they had been under a tremendous
10 emotional pressure. I think it is borne out by the note
11 your Honor got yesterday from No. 4 and the note your Honor
12 got from No. 3.

13 My position would be that the jury should be
14 discharged and the verdict set aside but obviously there
15 is a lot of enmity and they are polarized and I don't
16 think it is salvageable.

17 MR. AMOROSA: Of course it is our position
18 that the verdict with respect to the three defendants
19 on a conspiracy count stands. It has been entered --

20 THE COURT: I am not going to let it stand if I
21 am satisfied that this lady as she says it was pressured
22 into doing it. Don't worry about that. Anybody else
23 got any thoughts?

24 MR. PELTZ: Judge, I do but I think they
25 should wait until you have spoken with 3 and 4. I would

1 jpbr 5

2 like to see the verdict set aside.

3 THE COURT: I am not going to set it aside.
4 I want to speak to them first.

5 MR. HAMMER: Are we excused while your Honor
6 does that?

7 THE COURT: You said you had something.

8 MR. HAMMER: Yes. In today's Daily News there
9 appeared this article. Headline: "Bank executive guilty
10 in \$1 million gyp. A former Chemical Bank vice president
11 was convicted yesterday in Manhattan Federa Court of
12 channeling more than \$1 million in fraudulently obtained
13 loans into 19 businesses, many of which were little more
14 than paper corporations. Assistant U.S. Attorney
15 Dominic Amorosa identified the bank officer as William
16 Hockridge, thirty-four, of North Plainfield, New Jersey.

17 "The prosecutor said that Hockridge approved
18 loans ranging from \$50,000 to \$150,000 in 1971 and 1972 when
19 he was a loan officer at the bank's branch at 377 Madison
20 Avenue. Hockridge reportedly received money as well
21 as all expense paid trips and gifts in exchange for
22 approving the bogus loan. Marsha Kramer."

23 First, I respectfully inquire whether the
24 government gave this news information to this particular
25 reporter or any reporter while this jury is still deliberat-

1 jpbr 6

2 ing?

3 THE COURT: Who has got an answer to that?

4 MR. AMOROSA: There was no press release on
5 this at all, Judge. In fact, we were preparing a
6 press release. We are awaiting the culmination of the
7 trial before we submit a press release. I did see that
8 woman and I mentioned something to her. I certainly
9 didn't provide that information that is there to that wo-
10 man. In fact, it is my understanding with the press
11 which is right around the corner that they won't release
12 anything until we have a final verdict in this case.
13 Our office has not submitted a press release in
14 connection with this. The press is in the courtroom period-
15 ically. Your Honor, Kronin, the fellow from AP is in
16 the courtroom. They know what is going on. It is a public re-
17 cord. They, of course, have the right to print anything
18 they want. We can't stop them from printing anything
19 and that's apparently what they have done.

20 Are there any other newspaper articles?

21 MR. SHERR: There was nothing in the Times.

22 MR. AMOROSA: All these people are aware what has
23 happened and apparently three or four of them have waited on
24 this. They are waiting for the culmination of the
25 trial.

1 jpbr 7

2 But, we certainly didn't authorize it. We have
3 no authority to prevent these people from saying anything
4 they want.

5 MR. HAMMER: Next I respectfully submit if
6 any member of this jury still deliberating this case read
7 that article, it has a prejudicial effect against the
8 defendant Flynn so as to --

9 THE COURT: That application is denied.
10 I don't follow that at all. That's denied.

11 MR. AMOROSA: Have you indicated you are going
12 to interview jurors with respect to this?

13 THE COURT: I am going to interview this juror and
14 Juror No. 4 also.

15 MR. HAMMER: I would ask the Court to designate
16 it an appropriate court exhibit so the record would be
17 complete.

18 THE COURT: Yes, I will.

19 MR. AMOROSA: Our position with respect to this
20 is as follows:

21 As it stands right now the conspiracy count
22 against three defendants is satisfied in this case.

23 THE COURT: Maybe. I don't know. She says
24 she was pressured.

25 "I feel that I have committed a grave injustice

2 inasmuch as I let myself be led or rushed, for lack of a
3 better word, into agreeing with the verdict of the jury."

4 She is talking about the conspiracy verdict.
5 That's the only verdict they have agreed on.

6 MR. AMOROSA: That's why I asked. Once you
7 interview these jurors, it would appear that we will be in a
8 mistrial situation one way or the other.

9 THE COURT: If you don't interview them we
10 are in a mistrial situation.

11 MR. PELTZ: Judge, there's been a problem with the
12 jury from the very beginning.

13 MR. HAMMER: We are concerned with doing
14 justice. Obviously justice demands that we talk to ^{him}
15 to see where we are and why don't we do it?

16 THE COURT: I think it is the only situation.
17 I don't want to talk to them until this stuff is taken out
18 of the room.

19 MR. AMOROSA: You are going to interview them
20 privately, aren't you?

21 THE COURT: Yes, I will keep the reporter
22 here.

23 (Counsel excused from the robing room.)

24 THE COURT: Good morning, ladies. I have
25 received two notes. I have received a note from you,

1 jpbr 9

2 Miss Howe, yesterday. "I would very much like to see you."
3 And a few minutes ago I received a note from you,
4 Miss Bruno, which reads, "Please see me as soon as possible
5 this morning. I feel that I have committed a grave injustice
6 inasmuch as I let myself be led, rushed, for lack of a better
7 word, into agreeing with the verdict of the jury. I'm
8 sorry for having let this matter continue as long as I have."

9 Starting with that, I take it that's the ver-
10 dict on the conspiracy count that came in the night before
11 last.

12 JUROR NO. 3: Yes, sir.

13 THE COURT: As I recall it, the verdict found
14 three of the defendants, Hockridge, Petri and Easton
15 guilty.

16 JUROR NO. 3: Yes.

17 THE COURT: Now, is your concern with all three
18 of those?

19 JUROR NO. 3: Yes, it is. All three.

20 THE COURT: All three of them?

21 JUROR NO. 3: Yes.

22 THE COURT: What is your concern?

23 JUROR NO. 3: I felt that there was not enough
24 evidence to make me decide that Mr. Hockridge and
25 Mr. Petri were involved in a conspiracy. Those were the

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2 two men who we had decided on first. I thought a lot
3 about what had happened and I didn't remember a lot of
4 things that had happened at the beginning of the trial as
5 far as Mr. Henderson's testimony, I believe it is cross-
6 examination, with Mr. Landsman.

7 I think that there were some things that I
8 remember and I know that I mentioned it to the jurors on
9 Monday.

10 THE COURT: You mentioned what?

11 JUROR NO. 3: I mentioned to the other jurors
12 on Monday and it seemed that no one else had remembered
13 it. So, I just said, well, you know, I'm remembering
14 things that weren't true. And as far as Mr. Easton
15 goes --

16 THE COURT: Relax, now. Don't get upset about
17 this.

18 While you think about it, tell me about the
19 purpose of your note.

20 JUROR NO. 4: Well, I'll tell you, it was very
21 difficult. Yesterday I feel was the first day that we
22 were reasonable with each other. WE were able to talk and
23 there wasn't yelling and screaming. On Friday, you know,
24 I was personally attacked incredibly by two members.
25

THE COURT: When you say "incredibly attacked", 80

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2 what do you mean?

3 JUROR NO. 4: I mean I could be specific about
4 things that were said --

5 THE COURT: People have to do that particularly
6 when they get emotional and high strung. There is nothing
7 particularly unusual about that.

8 JUROR NO. 4: I know.

9 THE COURT: What is your feeling about the
10 verdict?

11 JUROR NO. 4: Well, about the first two, we had
12 actually decided we had taken, I guess, a preliminary
13 vote on Friday. I thought about some things over the
14 weekend and I wrote them down. I came back and I had some
15 questions. To answer my questions, some evidence was
16 sent up and I went through it and was able to talk at
17 least with the foreman and a few more reasonable people.

18 By then I felt secure about those two people.

19 THE COURT: Two?

20 JUROR NO. 4: Yes. The thing about Easton,
21 there were about three or four of us that were unsure.
22 I really felt like the last minute we were railroaded,
23 you know, before we could bring up our doubts and at
24 least talk about them and maybe see some more evidence.
25 I know that at the time when we were polled that I should

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2 have said no.

3 THE COURT: On Easton?

4 JUROR NO. 4: On Easton. I had some doubts
5 about Easton. I thought about it again the next night
6 and I haven't been getting too much sleep, although I was
7 last night. I decided well, I have to let go of this
8 or I won't be able to concentrate on Flynn. But it was
9 still bothering me yesterday.

10 THE COURT: Well, now, Miss Bruno, I think these
11 things are difficult and you have had sort of an emotional
12 problem with this thing here, haven't you?

13 JUROR NO. 3: It can be an emotional problem
14 but the question in my mind is the reasonable doubt. What
15 is a reasonable doubt?

16 THE COURT: That is right. I think -- is the
17 jury all here this morning?

18 JUROR NO. 4: Yes.

19 JUROR NO. 3: Yes, they are.

20 THE COURT: I think what I would like to do
21 is this. You know, I mentioned to you when I charged
22 you I don't want you ever to surrender your honest con-
23 victions because of other jurors.

24 JUROR NO. 3: That is what I did.

25 THE COURT: You think you did.

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2 JUROR NO. 3: I feel that I did. I surrendered
3 myself because of verbal attack. I don't want to accuse
4 anyone --

5 THE COURT: Well, that's not a good reason.
6 Jurors disagree inevitably and that's the whole purpose
7 of the process.

8 JUROR NO. 3: But a personal verbal attack
9 inasmuch as being accused of not -- of being stupid, of
10 not understanding what's taking place.

11 THE COURT: You see what I went through with
12 the lawyers during the trial. Why do you think that's
13 so unusual. You have got to get hardened to that. Is
14 that really the reason because you were accused of being
15 stupid?

16 JUROR NO. 3: Because whatever the word is --
17 I can't think of the word.

18 THE COURT: Well, I will tell you what I would
19 like you to do. I think you should think about this some
20 more. There are three people and I told you that they
21 are three separate people and I told you you have to
22 consider each one separately.

23 You did come in with a verdict on three of
24 them. I would like you to think about that and resume your
25 deliberations and then we'll see how it goes today with the

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2 deliberations and then perhaps after we finish here I will
3 want to see you again.

4 JUROR NO. 3: I don't understand what you mean.
5 Continue the deliberating --

6 THE COURT: After the jury finishes, I think I
7 will want to see you again and talk again about some of these
8 things that you have told me this morning. But I think
9 it would be wise if both of you could go back with the
10 jurors.

11 You have got a problem and you do the same
12 thing with respect to Mr. Easton. Think that one over
13 pretty carefully and you have the problem with, I take it,
14 all three of them.

15 JUROR NO. 3: All three of them, yes.

16 THE COURT: I think that's what I will do --

17 JUROR NO. 4: I know there is one other
18 member too who feels that way too.

19 THE COURT: About what?

20 JUROR NO. 4: I think about all three,
21 actually. But I think specifically about Easton also.

22 THE COURT: All right. Why don't you go back
23 then and let's see where we go today and I'll follow this
24 up.

25 Thank you very much, both of you, for coming in.

2 JUROR NO. 4: Thank you, Judge.

3 JUROR NO. 3: Thank you for giving me the
4 time.

5 THE COURT: Just remember to relax.

6 JUROR NO. 4: That's what I'm saying, as of
7 yesterday we were not all yelling and screaming and we were
8 reasonable.

9 THE COURT: You were more relaxed.

10 JUROR NO. 4: I think we were going about it
11 the way the evidence and the testimony has --

12 THE COURT: You feel that way too?

13 JUROR NO. 3: Yes.

14 JUROR NO. 4: The way you base things on rather
15 than just wild supposition.

16 THE COURT: One other thought. When you go
17 back with the jury and when you think it is an appropriate
18 time, you raise your points again with the jury about
19 what you think about what they have done and see what they
20 think about that and have an exchange on that.

21 JUROR NO. 3: We have brought it up.
22 I brought it up on Monday as far as Mr. Easton and I said
23 that I didn't think we gave him a fair shake and I
24 thought there were some other things and I wrote it down and
25 I have the paper that I wrote it down on with my questions.

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2 But I never got around to bringing them out.

3 THE COURT: Why don't you just relax about
4 it and maybe you will get another chance to do that and
5 we'll see how we go. I think that's the best thing.

6 Thank you both for coming in.

7 (Juror No. 3 and Juror No. 4 left the robing
8 room.)

9 (Counsel present in robing room.)

10 THE COURT: I will ask the reporter to read what
11 transpired here.

12 (Record read.)

13 MR. SHERR: If your honor please, in view of the
14 statements on behalf of Defendant Easton, I must move to set
15 aside the verdict and move for a mistrial and discharge
16 of the jury. The juror has testified with respect to Easton
17 the two jurors as well as the third juror were pressured into
18 a verdict. She wants to change her verdict. I feel
19 that under the circumstances justice would best be served by
20 setting aside the verdict and declaring a mistrial.

21 MR. AMOROSA: Judge, it is our position based on
22 established law that once a verdict is rendered as to any count
23 against any defendant, a juror may not impeach that ver-
24 dict. What we had here Monday evening was a verdict
25 being rendered. Federal Rule 606 of the Federal Rules of 86

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2 Evidence is entitled "Competency of a Juror as a witness."

3 Subsection B of that rule reads as follows:

4 "Inquiry into validity of verdict or indictment.
5 Upon an inquiry into the validity of a verdict or indictment
6 a juror may not testify as to any matter or statement
7 occurring during the course of the jury's deliberations or
8 to the effect of anything upon his or any other juror's
9 mind or emotions as influencing him to assent to or dissent
10 from the verdict or indictment or concerning his mental
11 processes in connection therewith except that a juror may
12 testify on the question of whether extraneous prejudicial in-
13 formation was improperly brought to the jury's attention
14 or whether any outside influence was improperly brought to
15 bear upon any juror. Nor may his affidavit or evidence
16 of any statement by him concerning a matter about what he
17 would be precluded from testifying be received for these
18 purposes."

19 This rule, Judge, is clearly applicable
20 in this case. The verdict entered on Monday evening
21 as to those three defendants must be established. This
22 juror did not say anything to your Honor with respect to
23 any extraneous outside influence being placed upon her.
24 Neither juror said that. All these jurors said was that
25 they had difficulty in the jury room. We have no problem with

JUDGMENT

United States of America vs.

United States District Court for

DEFENDANT

Stephen K. Easton

Southern District of New York

DOCKET NO. ➤

76 Cr. 843 DBB

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR
6 15 '77

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant wished to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

William Sherr

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☒ NOT GUILTY

FINDING &
JUDGMENT

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged

☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of

**unlawfully, wilfully and knowingly
embezzle, abstract, purloin and wilfully misapply the moneys, funds
and credits of the Chemical Bank and the moneys, funds and assets
entrusted to the custody and care of said bank. (Title 18, U.S. Code,
§§656 and 2.); conspiracy so to do. (Title 18, U.S. Code, §371.)**

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

SIX (6) MONTHS on count 1 and FINED \$5,000.00 on count 1. Fine is to be paid within 60 days or the defendant is to be committed until the fine is paid or he is otherwise discharged according to law.

Imposition of sentence on count 2 is suspended. Defendant is placed on probation for a period of THREE (3) YEARS, to commence upon expiration of confinement imposed on count 1, subject to the standing probation order of this Court.

SPECIAL
CONDITIONS
OF
PROBATION

Defendant is continued on present bail for 60 days, at which time he is to surrender for service of sentence.

ADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other authorized officer.

CERTIFIED AS A TRUE COPY

U.S. District Judge

U.S. Magistrate

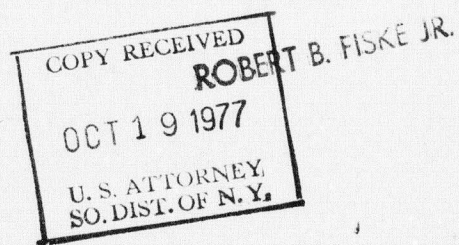
THIS DATE

BY

Copy received
10-18-77

James Weinstein
Attorney for
Defendant - Appellant

Charles Petri



Copy Received
10-19-77

James Roodick
Attorney for Dept. App't.
William Hochberg